

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against GREGORY GERARD McPHEE,
a Minnesota Attorney,
Registration No. 316696.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition seeking reciprocal discipline pursuant to Rule 12(d), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on April 22, 2002. Respondent currently resides in Chicago, Illinois. Respondent is on CLE restricted status.

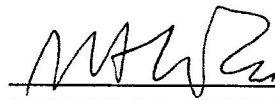
The Grievance Committee of the Fifth Judicial District for the State of New York filed a petition charging respondent with acts of professional misconduct arising out of his representation of five clients in criminal matters. Respondent filed an answer denying the allegations and a referee was appointed to conduct a hearing. Respondent failed to appear for the scheduled hearing and the hearing proceeded in his absence. The referee found that respondent had accepted legal fees from four incarcerated clients, failed to complete the work for which he was retained and refunded no part of the legal fees. The referee also found that respondent failed to appear at a scheduled court date on behalf of another client in a criminal matter, failed to return the client's telephone calls and moved from his office without notifying the client. Finally, the

referee found that respondent failed to timely comply with requests for information from the Grievance Committee and to respond to client complaints.

On November 9, 2007, the Supreme Court of the State of New York, Appellate Division, adopted the order of the referee, finding that respondent had violated the following Disciplinary Rules of the Code of Professional Responsibility: DR 1-102(a)(5) (22 New York Codes, Rules and Regulations (NYCRR) 1200.3(a)(5); DR 1-102(a)(7) (22 NYCRR 1200.3(a)(7); DR 2-110(a)(2) (22 NYCRR 1200.15(a)(2); DR 2-110(a)(3) (22 NYCRR 1200.15(a)(3); DR 6-101(a)(3) (22 NYCRR 1200.30(a)(3); DR 7-101(a)(2) (22 NYCRR 1200.32(a)(2); and DR 7-101(a)(3) (22 NYCRR 1200.32(a)(3) (Exhibit 1). The Court ordered respondent suspended from the practice of law for a period of two years and until further order of the Court.


WHEREFORE, the Director respectfully prays for an order of this Court directing that respondent and the Director inform the Court within thirty days of its order whether either or both believe the imposition of identical discipline by the Minnesota Supreme Court would be unwarranted and the reasons for that claim.

Dated: September 3, 2014.



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46 A.D.3d 202

Supreme Court, Appellate Division,
Fourth Department, New York.

Matter of Gregory G. McPHEE,
an Attorney, Respondent.
Grievance Committee of the
Fifth Judicial District, Petitioner.

Nov. 9, 2007.

Opinion

PER CURIAM:

*203 Respondent was admitted to the practice of law by this Court on June 21, 2000, and formerly maintained offices for the practice of law in Syracuse and Brewerton. The Grievance Committee (petitioner) filed a petition charging respondent with acts of professional misconduct arising from his representation of five clients in criminal matters. Respondent filed an answer denying material allegations of the petition and a referee was appointed to conduct a hearing. Respondent failed to appear on the scheduled hearing date, and the hearing proceeded in his absence. The Referee filed a report, which petitioner moves to confirm. Respondent failed to respond to the motion or to appear before this Court on the return date.

The Referee found that respondent accepted legal fees from four incarcerated clients, failed to complete the work for which he was retained and refunded no part of the legal fees. Additionally, the Referee found that respondent failed to appear at a scheduled court date on behalf of another client in a criminal matter, failed to return the client's telephone calls and moved from his law office without notifying the client. Finally, the Referee found that respondent failed to comply timely with requests from petitioner for information and for responses to client complaints, requiring petitioner to obtain a subpoena from this Court.

We confirm the findings of fact made by the Referee and conclude that respondent violated the following Disciplinary Rules of the Code of Professional Responsibility:

DR 1-102(a)(5) (22 NYCRR 1200.3[a][5])—engaging in conduct that is prejudicial to the administration of justice;

DR 1-102(a)(7) (22 NYCRR 1200.3[a][7])—engaging in conduct that adversely reflects on his fitness as a lawyer;

DR 2-110(a)(2) (22 NYCRR 1200.15[a][2])—withdrawing from employment without taking steps to the extent reasonably *204 practicable to avoid foreseeable prejudice to the rights of the client;

DR 2-110(a)(3) (22 NYCRR 1200.15[a][3])—failing to refund promptly any part of a fee paid in advance that has not been earned;

DR 6-101(a)(3) (22 NYCRR 1200.30[a][3])—neglecting a legal matter entrusted to him;

DR 7-101(a)(2) (22 NYCRR 1200.32[a][2])—intentionally failing to carry **772 out a contract of employment entered into with a client for professional services; and

DR 7-101(a)(3) (22 NYCRR 1200.32[a][3])—intentionally prejudicing or damaging a client during the course of the professional relationship.

We have considered, in determining an appropriate sanction, the finding of the Referee that there are no mitigating factors in this matter. We note, in this regard, our agreement with the contention of petitioner that respondent's conduct in electing to certify his retirement from the practice of law during the pendency of petitioner's investigation should have no bearing on the sanction imposed. We have also considered the aggravating factors found by the Referee, including respondent's deliberate failure to appear for the hearing and his contact, prior to the hearing, with two of petitioner's prospective witnesses for the purpose of persuading the witnesses to sign statements that the witnesses termed false. Finally, we have considered the failure of respondent to respond to the motion filed by petitioner or to appear before this Court on the return date. Accordingly, after consideration of all of the factors in this matter, we conclude that respondent should be suspended for two years and until further order of the Court.

Order of suspension entered.

In re McPhee, 46 A.D.3d 202 (2007)

844 N.Y.S.2d 771, 2007 N.Y. Slip Op. 08696

HURLBUTT, J.P., MARTOCHE, SMITH, CENTRA, and
PERADOTTO, JJ., concur.

Parallel Citations

46 A.D.3d 202, 844 N.Y.S.2d 771 (Mem), 2007 N.Y. Slip
Op. 08696

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